REED, District Judge, dissenting.

I respectfully dissent from the decision to reverse the district court's judgment and the remand for an award of disability benefits.

The opinions of Cain's treating and examining physicians were contradicted by several non-treating doctors.[1] Consequently, the ALJ could rightly reject the treating and examining physicians' opinions as long as he provided specific and legitimate reasons supported by substantial evidence in the record. *Lester v. Chater*, 81 F.3d 821, 830-31. Substantial evidence is defined as "more than a mere scintilla but less than a preponderance." *Tackett v. Apfel*, 180 F.3d 1094, 1098 (9th Cir. 1999) (quoting *Matney v. Sullivan*, 981 F.2d 1016, 1018 (9th Cir. 1992)). It is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Edlund v. Massanari*, 253 F.3d 1152, 1156 (9th Cir. 2001). I conclude that the ALJ's decision met these standards.

The ALJ rejected the opinions of Drs. Dimitman and Weissbein, Cain's treating physicians, and Dr. Grier, an examining physician. Collectively, these doctors opined that Cain's mental impairments left her completely unable to work.

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[1] As discussed below, these opinions were also partially contradicted by Dr. Weissbein, one of Cain's treating physicians.

Rather than relying on these diagnoses the ALJ credited the opinions of the psychiatric expert, Dr. Bolter, and Dr. Lizarraras, the state agency medical consultant. Both of these non-treating physicians found Cain capable of performing simple repetitive tasks in a non-public environment. In my view, the reasons offered by the ALJ for rejecting the treating and examining physicians' opinions were specific, legitimate and supported by substantial evidence.

First, the ALJ found Cain's reported daily activities, including the care of her young son, to be inconsistent with "a marked limitation in her ability to adapt to a work setting." Second, he noted that both Dr. Bolter and Dr. Lizarraras found Cain capable of performing simple repetitive tasks in a non-public environment. *See Morgan v. Comm'r of Soc. Sec. Admin.*, 169 F.3d 595, 602 (9th Cir. 1999) (explaining that the Ninth Circuit has consistently upheld the rejection of a treating or examining physician's opinion based, in part, on conflicting testimony from a non-examining medical advisor). Third, the ALJ pointed out that Dr. Weissbein's report conceded that Cain was not significantly limited in her ability to perform simple tasks.[2] Finally, the ALJ observed that Dr. Weissbein's assessment as a whole lacked any indication of treatment history or medical findings to support the alleged levels of limitation. *See Magallanes v. Bowen*, 881

[2] Another Residual Functional Capacity Assessment dated March 30, 2000, prepared by an unknown doctor, expressed the same opinion.

F.2d 747, 751 (9th Cir. 1989) (quoting *Young v. Heckler*, 803 F.2d 963, 968 (9th Cir. 1986)) ("[T]he ALJ need not accept a treating physician's opinion which is 'brief and conclusionary in form with little in the way of clinical findings to support its conclusion'"); *Crane v. Shalala*, 76 F.3d 251, 253 (9th Cir. 1996) (explaining that the ALJ could permissibly reject three psychological evaluations "because they were check-off reports that did not contain any explanation of the bases of their conclusions").

Viewed individually, each of these stated reasons would be insufficient to reject the treating and examining physicians' opinions. Taken together, though, I believe they constitute specific and legitimate grounds for discrediting the opinions, and are supported by "more than a mere scintilla" of evidence. *Tackett*, 180 F.3d at 1098. The ALJ analyzed the conflicting evidence and limited Cain's residual functional capacity to simple repetitive tasks in a non-public setting. This decision was in line with the medical opinions of Drs. Bolter, Lizarraras and, to a limited extent, Dr. Weissbein. As a result, I would affirm the district court's grant of summary judgment in favor of the Commissioner, and I respectfully dissent.